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7
8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 1D 2003 63608

11 LISA MICHELLE KENNEDY
12 5998 Crown Avenue
La Canada, CA 91011

A C C U S A T I O N

13 Physical Therapy License No. PT 16252

14 Respondent.
15

16 Complainant alleges:

17 PARTIES

18 1. Steven K. Hartzell (Complainant) brings this Accusation solely in
19 his official capacity as the Executive Officer of the Physical Therapy Board of California,
20 Department of Consumer Affairs.

21 2. On or about December 21, 1989, the Physical Therapy Board of
22 California issued Physical Therapy License Number PT 16252 to Lisa Michelle Kennedy
23 (Respondent). The Physical Therapy License was in full force and effect at all times
24 relevant to the charges brought herein and will expire on February 28, 2005, unless
25 renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Physical Therapy Board of
28 California (Board), Department of Consumer Affairs, under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise
2 indicated.

3 4. Section 2661.5 of the Code states:

4 (a) In any order issued in resolution of a disciplinary proceeding
5 before the board, the board may request the administrative law judge to
6 direct any licensee found guilty of unprofessional conduct to pay to the
7 board a sum not to exceed the actual and reasonable costs of the
8 investigation and prosecution of the case.

9 (b) The costs to be assessed shall be fixed by the administrative
10 law judge and shall not in any event be increased by the board. When the
11 board does not adopt a proposed decision and remands the case to an
12 administrative law judge, the administrative law judge shall not increase
13 the amount of the assessed costs specified in the proposed decision.

14 (c) When the payment directed in an order for payment of costs is
15 not made by the licensee, the board may enforce the order of payment by
16 bringing an action in any appropriate court. This right of enforcement shall
17 be in addition to any other rights the board may have as to any licensee
18 directed to pay costs.

19 (d) In any judicial action for the recovery of costs, proof of the
20 board's decision shall be conclusive proof of the validity of the order of
21 payment and the terms for payment.

22 (e) (1) Except as provided in paragraph (2), the board shall not
23 renew or reinstate the license or approval of any person who has
24 failed to pay all of the costs ordered under this section.

25 (2) Notwithstanding paragraph (1), the board may, in its
26 discretion, conditionally renew or reinstate for a maximum of one
27 year the license or approval of any person who demonstrates
28 financial hardship and who enters into a formal agreement with the

1 board to reimburse the board within that one year period for those
2 unpaid costs.

3 (f) All costs recovered under this section shall be deposited in the
4 Physical Therapy Fund as a reimbursement in either the fiscal year in
5 which the costs are actually recovered or the previous fiscal year, as the
6 board may direct.

7 5. Section 141 of the Code states:

8 “(a) For any licensee holding a license issued by a board under the
9 jurisdiction of the department, a disciplinary action taken by another state, by any
10 agency of the federal government, or by another country for any act substantially
11 related to the practice regulated by the California license, may be a ground for
12 disciplinary action by the respective state licensing board. A certified copy of the
13 record of the disciplinary action taken against the licensee by another state, an
14 agency of the federal government, or another country shall be conclusive evidence
15 of the events related therein.

16 “(b) Nothing in this section shall preclude a board from applying a
17 specific statutory provision in the licensing act administered by that board that
18 provides for discipline based upon a disciplinary action taken against the licensee
19 by another state, an agency of the federal government, or another country.”

20 FIRST CAUSE FOR DISCIPLINE

21 (Out of State Discipline)

22 6. Respondent is subject to disciplinary action under section 141 of
23 the Business and Professions Code in that she has been subject of disciplinary action
24 taken by another state. The circumstances are as follows:

25 7. On or about December 18, 2003, Respondent was subject of a
26 Consent Order before the Louisiana State Board of Physical Therapy Examiners.

27 8. The Louisiana Consent Order made factual findings, which were
28 admitted to by the respondent. These factual finding were that in March and April of

2002 while employed on a part-time basis by R&R Home Care, Inc. in the New Orleans area, respondent became ill and was hospitalized for care. After a week of hospitalization and some degree of recovery, she had her case files and other records returned to her employer who was informed of her hospitalization and of her inability to continue to provide care to her assigned patients. Respondent's failure to timely communicate her incapacity to practice physical therapy to her employer appears to have been the result of the medical conditions for which she was hospitalized, which was a recurrence of long standing physical and emotional problems. Respondent has, over an extended period of time, had treatment for anxiety, depression, post-traumatic stress disorder and eating disorders and continues in therapy and treatment for these problems currently. It is her intention to pursue further treatment with the goal of eventually returning to practice in her home state of California.

9. As a result of the December, 2003 Consent Order, the Louisiana State Board of Physical Therapy examiners issued the following decision:

"A. Respondent's license to practice physical therapy is suspended for a period of no less than six months from the date of this Consent Order.

"B. During this period of suspension, Respondent shall continue with therapy and treatment as advised by her treating professionals.

"C. At any time after the expiration of the mandatory six-month suspension, Respondent may apply to the Board for reinstatement of her license pursuant to the provisions of Board Rule 349. At such time, Respondent shall provide to the Board credible medical evidence that she has substantially recovered from her long – standing disorders or conditions described above, with the specific medical therapist. The Board reserves the right to have an independent evaluation made of Respondent at that time, with a expense of such evaluation to be born by the Respondent.

"D. Upon written certification that Respondent no longer plans to practice in Louisiana and that she is seeking licensure in another state, the Board will transfer jurisdiction for reinstatement to that jurisdiction after expiration of the mandatory

six month suspension period.

“E. To help defray legal and other administrative expenses related to complaint investigation and establishment of this Consent Order, Respondent shall pay to the Board the sum of \$500 by December 31, 2003.

“F. the Board is authorized to provide a copy of this Consent Order to Respondent’s former employer, R&R Home Care, Inc. and to the California physical therapy licensing authority.”

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapy License Number PT 16252, issued to Lisa Michelle Kennedy;

2. Ordering Lisa Michelle Kennedy to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

3. Taking such other and further action as deemed necessary and proper.

DATED: 06/18/2004

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant